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ECONOMY | BUT NOBODY PAYS THAT

G.E.'s Strategies Let It Avoid Taxes Altogether

By DAVID KOCIENIEWSKI MARCH 24, 2011

General Electric, the nation's largest corporation, had a very good year in 2010.

The company reported worldwide profits of $14.2 billion, and said $5.1 billion of the total came from its operations in the United States.

Its American tax bill? None. In fact, G.E. claimed a tax benefit of $3.2 billion.

That may be hard to fathom for the millions of American business owners and households now preparing their own returns, but low taxes are nothing new for G.E. The company has been cutting the percentage of its American profits paid to the Internal Revenue Service for years, resulting in a far lower rate than at most multinational companies.

Its extraordinary success is based on an aggressive strategy that mixes fierce lobbying for tax breaks and innovative accounting that enables it to concentrate its profits offshore. G.E.'s giant tax department, led by a bow-tied former Treasury official named John Samuels, is often referred to as the world's best tax law firm. Indeed, the company's slogan "Imagination at Work" fits this department well. The team includes former officials not just from the Treasury, but also from the I.R.S. and virtually all the tax-writing committees in Congress.

While General Electric is one of the most skilled at reducing its tax burden, many other companies have become better at this as well. Although the top corporate tax rate in the United States is 35 percent, one of the highest in the world, companies have been increasingly using a maze of shelters, tax credits and subsidies to pay far less.

In a regulatory filing just a week before the Japanese disaster put a spotlight on the company's nuclear reactor business, G.E. reported that its tax burden was 7.4 percent of its American profits, about a third of the average reported by other American multinationals. Even those figures are overstated, because they include taxes that will be paid only if the company brings its overseas profits back to the United States. With those profits still offshore, G.E. is effectively getting money back.

Such strategies, as well as changes in tax laws that encouraged some businesses and professionals to file as individuals, have pushed down the corporate share of the nation's tax receipts — from 30 percent of all federal revenue in the mid-1950s to 6.6 percent in 2009.

Yet many companies say the current level is so high it hobbles them in competing with foreign rivals. Even as the government faces a mounting budget deficit, the talk in Washington is about lower rates. President Obama has said he is considering an overhaul of the corporate tax system, with an eye to lowering the top rate, ending some tax subsidies and loopholes and generating the same amount of revenue. He has designated G.E.'s chief executive, Jeffrey R. Immelt, as his liaison to the business community and as the chairman of the President's Council on Jobs and Competitiveness, and it is expected to discuss corporate taxes.

"He understands what it takes for America to compete in the global economy," Mr. Obama said of Mr. Immelt, on his appointment in January, after touring a G.E. factory in upstate New York that makes turbines and generators for sale around the world.

A review of company filings and Congressional records shows that one of the most striking advantages of General Electric is its ability to lobby for, win and take advantage of tax breaks.

Over the last decade, G.E. has spent tens of millions of dollars to push for changes in tax law, from more generous depreciation schedules on jet engines to "green energy" credits for its wind turbines. But the most lucrative of these measures allows G.E. to operate a vast leasing and lending business abroad with profits that face little foreign taxes and no American taxes as long as the money remains overseas.

Company officials say that these measures are necessary for G.E. to compete against global rivals and that they are acting as responsible citizens. "G.E. is committed to acting with integrity in relation to our tax obligations," said Anne Eisele, a spokeswoman. "We are committed to complying with tax rules and paying all legally obliged taxes. At the same time, we have a responsibility to our shareholders to legally minimize our costs."

The assortment of tax breaks G.E. has won in Washington has provided a significant short-term gain for the company's executives and shareholders. While the financial crisis led G.E. to post a loss in the United States in 2009, regulatory filings show that in the last five years, G.E. has accumulated $26 billion in American profits, and received a net tax benefit from the I.R.S. of $4.1 billion.

But critics say the use of so many shelters amounts to corporate welfare, allowing G.E. not just to avoid taxes on profitable overseas lending but also to amass tax credits and write-offs that can be used to reduce taxes on billions of dollars of profit from domestic manufacturing. They say that the assertive tax avoidance of multinationals like G.E. not only shortchanges the Treasury, but also harms the economy by discouraging investment and hiring in the United States.

"In a rational system, a corporation's tax department would be there to make sure a company complied with the law," said Len Burman, a former Treasury

official who now is a scholar at the nonpartisan Tax Policy Center. “But in our system, there are corporations that view their tax departments as a profit center, and the effects on public policy can be negative.”

The shelters are so crucial to G.E.’s bottom line that when Congress threatened to let the most lucrative one expire in 2008, the company came out in full force. G.E. officials worked with dozens of financial companies to send letters to Congress and hired a bevy of outside lobbyists.

The head of its tax team, Mr. Samuels, met with Representative Charles B. Rangel, then chairman of the Ways and Means Committee, which would decide the fate of the tax break. As he sat with the committee’s staff members outside Mr. Rangel’s office, Mr. Samuels dropped to his knee and pretended to beg for the provision to be extended — a flourish made in jest, he said through a spokeswoman.

That day, Mr. Rangel reversed his opposition to the tax break, according to other Democrats on the committee.

The following month, Mr. Rangel and Mr. Immelt stood together at St. Nicholas Park in Harlem as G.E. announced that its foundation had awarded $30 million to New York City schools, including $11 million to benefit various schools in Mr. Rangel’s district. Joel I. Klein, then the schools chancellor, and Mayor Michael R. Bloomberg, who presided, said it was the largest gift ever to the city’s schools.

G.E. officials say the donation was granted solely on the merit of the project. “The foundation goes to great lengths to ensure grant decisions are not influenced by company government relations or lobbying priorities,” Ms. Eisele said.

Mr. Rangel, who was censured by Congress last year for soliciting donations from corporations and executives with business before his committee, said this month that the donation was unrelated to his official actions.

Defying Reagan's Legacy

General Electric has been a household name for generations, with light bulbs, electric fans, refrigerators and other appliances in millions of American homes. But today the consumer appliance division accounts for less than 6 percent of revenue, while lending accounts for more than 30 percent. Industrial, commercial and medical equipment like power plant turbines and jet engines account for about 50 percent. Its industrial work includes everything from wind farms to nuclear energy projects like the troubled plant in Japan, built in the 1970s.

Because its lending division, GE Capital, has provided more than half of the company's profit in some recent years, many Wall Street analysts view G.E. not as a manufacturer but as an unregulated lender that also makes dishwashers and M.R.I. machines.

As it has evolved, the company has used, and in some cases pioneered, aggressive strategies to lower its tax bill. In the mid-1980s, President Ronald Reagan overhauled the tax system after learning that G.E. — a company for which he had once worked as a commercial pitchman — was among dozens of corporations that had used accounting gamesmanship to avoid paying any taxes.

"I didn't realize things had gotten that far out of line," Mr. Reagan told the Treasury secretary, Donald T. Regan, according to Mr. Regan's 1988 memoir. The president supported a change that closed loopholes and required G.E. to pay a far higher effective rate, up to 32.5 percent.

That pendulum began to swing back in the late 1990s. G.E. and other financial services firms won a change in tax law that would allow multinationals to avoid taxes on some kinds of banking and insurance income. The change meant that if G.E. financed the sale of a jet engine or generator in Ireland, for example, the company would no longer have to pay American tax on the interest income as long as the profits remained offshore.

Known as active financing, the tax break proved to be beneficial for investment banks, brokerage firms, auto and farm equipment companies, and lenders like GE Capital. This tax break allowed G.E. to avoid taxes on lending income from abroad, and permitted the company to amass tax credits, write-offs and depreciation. Those benefits are then used to offset taxes on its American manufacturing profits.

G.E. subsequently ramped up its lending business.

As the company expanded abroad, the portion of its profits booked in low-tax countries such as Ireland and Singapore grew far faster. From 1996 through 1998, its profits and revenue in the United States were in sync — 73 percent of the company's total. Over the last three years, though, 46 percent of the company's revenue was in the United States, but just 18 percent of its profits.

Martin A. Sullivan, a tax economist for the trade publication Tax Analysts, said that booking such a large percentage of its profits in low-tax countries has "allowed G.E. to bring its U.S. effective tax rate to rock-bottom levels."

G.E. officials say the disparity between American revenue and American profit is the result of ordinary business factors, such as investment in overseas markets and heavy lending losses in the United States recently. The company also says the nation's workers benefit when G.E. profits overseas.

"We believe that winning in markets outside the United States increases U.S. exports and jobs," Mr. Samuels said through a spokeswoman. "If U.S. companies aren't competitive outside of their home market, it will mean fewer, not more, jobs in the United States, as the business will go to a non-U.S. competitor."

The company does not specify how much of its global tax savings derive from active financing, but called it "significant" in its annual report. Stock analysts estimate the tax benefit to G.E. to be hundreds of millions of dollars a year.

"Cracking down on offshore profit-shifting by financial companies like G.E. was one of the important achievements of President Reagan's 1986 Tax Reform

Act," said Robert S. McIntyre, director of the liberal group Citizens for Tax Justice, who played a key role in those changes. "The fact that Congress was snookered into undermining that reform at the behest of companies like G.E. is an insult not just to Reagan, but to all the ordinary American taxpayers who have to foot the bill for G.E.'s rampant tax sheltering."

A Full-Court Press

Minimizing taxes is so important at G.E. that Mr. Samuels has placed tax strategists in decision-making positions in many major manufacturing facilities and businesses around the globe. Mr. Samuels, a graduate of Vanderbilt University and the University of Chicago Law School, declined to be interviewed for this article. Company officials acknowledged that the tax department had expanded since he joined the company in 1988, and said it now had 975 employees.

At a tax symposium in 2007, a G.E. tax official said the department's "mission statement" consisted of 19 rules and urged employees to divide their time evenly between ensuring compliance with the law and "looking to exploit opportunities to reduce tax."

Transforming the most creative strategies of the tax team into law is another extensive operation. G.E. spends heavily on lobbying: more than $200 million over the last decade, according to the Center for Responsive Politics. Records filed with election officials show a significant portion of that money was devoted to tax legislation. G.E. has even turned setbacks into successes with Congressional help. After the World Trade Organization forced the United States to halt $5 billion a year in export subsidies to G.E. and other manufacturers, the company's lawyers and lobbyists became deeply involved in rewriting a portion of the corporate tax code, according to news reports after the 2002 decision and a Congressional staff member.

By the time the measure — the American Jobs Creation Act — was signed into law by President George W. Bush in 2004, it contained more than $13 billion

a year in tax breaks for corporations, many very beneficial to G.E. One provision allowed companies to defer taxes on overseas profits from leasing planes to airlines. It was so generous — and so tailored to G.E. and a handful of other companies — that staff members on the House Ways and Means Committee publicly complained that G.E. would reap "an overwhelming percentage" of the estimated $100 million in annual tax savings.

According to its 2007 regulatory filing, the company saved more than $1 billion in American taxes because of that law in the three years after it was enacted.

By 2008, however, concern over the growing cost of overseas tax loopholes put G.E. and other corporations on the defensive. With Democrats in control of both houses of Congress, momentum was building to let the active financing exception expire. Mr. Rangel of the Ways and Means Committee indicated that he favored letting it end and directing the new revenue — an estimated $4 billion a year — to other priorities.

G.E. pushed back. In addition to the $18 million allocated to its in-house lobbying department, the company spent more than $3 million in 2008 on lobbying firms assigned to the task.

Mr. Rangel dropped his opposition to the tax break. Representative Joseph Crowley, Democrat of New York, said he had helped sway Mr. Rangel by arguing that the tax break would help Citigroup, a major employer in Mr. Crowley's district.

G.E. officials say that neither Mr. Samuels nor any lobbyists working on behalf of the company discussed the possibility of a charitable donation with Mr. Rangel. The only contact was made in late 2007, a company spokesman said, when Mr. Immelt called to inform Mr. Rangel that the foundation was giving money to schools in his district.

But in 2008, when Mr. Rangel was criticized for using Congressional stationery to solicit donations for a City College of New York school being built in his honor, Mr. Rangel said he had appealed to G.E. executives to make the $30 million donation to New York City schools.

G.E. had nothing to do with the City College project, he said at a July 2008 news conference in Washington. “And I didn’t send them any letter,” Mr. Rangel said, adding that he “leaned on them to help us out in the city of New York as they have throughout the country. But my point there was that I do know that the C.E.O. there is connected with the foundation.”

In an interview this month, Mr. Rangel offered a different version of events — saying he didn’t remember ever discussing it with Mr. Immelt and was unaware of the foundation’s donation until the mayor’s office called him in June, before the announcement and after Mr. Rangel had dropped his opposition to the tax break.

Asked to explain the discrepancies between his accounts, Mr. Rangel replied, “I have no idea.”

Value to Americans?

While G.E.’s declining tax rates have bolstered profits and helped the company continue paying dividends to shareholders during the economic downturn, some tax experts question what taxpayers are getting in return. Since 2002, the company has eliminated a fifth of its work force in the United States while increasing overseas employment. In that time, G.E.’s accumulated offshore profits have risen to $92 billion from $15 billion.

“That G.E. can almost set its own tax rate shows how very much we need reform,” said Representative Lloyd Doggett, Democrat of Texas, who has proposed closing many corporate tax shelters. “Our tax system should encourage job creation and investment in America and end these tax incentives for exporting jobs and dodging responsibility for the cost of securing our country.”

As the Obama administration and leaders in Congress consider proposals to revamp the corporate tax code, G.E. is well prepared to defend its interests. The company spent $4.1 million on outside lobbyists last year, including four boutique firms that specialize in tax policy.

“We are a diverse company, so there are a lot of issues that the government considers, that Congress considers, that affect our shareholders,” said Gary Sheffer, a G.E. spokesman. “So we want to be sure our voice is heard.”

But Nobody Pays That: Articles in this series will examine efforts by businesses to lower their taxes and the debate over how to improve the tax system.

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